IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO. 202 OF 2001.

Mrs. Ruth Furtado,
r/o 48, Machado Cove,
Dona Paula, Goa. ... Petitioner.

Versus

State Bank of India,
a Nationalised Bank,
represented by its
Branch Manager,
Treasury Branch,
Panaji, Goa. ... Respondent.

Mr. M.S. Sonak, Advocate for the Petitioner.

Mr. M.S. Usgaonkar, Senior Advocate with Miss Amira Razak, Advocate for the Respondent.

Coram: S. RADHAKRISHNAN &
P.V. HARDAS, JJ.

Date: 2nd September 2002.

ORAL JUDGMENT (PER RADHAKRISHNAN, J.)

By this petition, the petitioner, who was working as a Special Assistant in the respondent State Bank of India, has challenged the communication dated 27th June 2001, issued by the respondent Bank, whereby the petitioner was called upon to submit her resignation with effect from the day on which she was declared elected by the Election Authority, failing which, it was mentioned in the said letter that, her undertaking would be treated as a letter of resignation.

2. The brief facts are that the petitioner, who was an employee in the respondent Bank for the last

several years as a Cashier and as a Special Assistant at the relevant time had applied to the respondent Bank for permission to contest at the elections to the Panaji Municipal Council, which was scheduled to be held some time in March 2001. Thereupon, the respondent Bank had directed the petitioner to give an undertaking. Accordingly, the petitioner had given an undertaking on 22nd February 2001 addressed to the Branch Manager of the respondent Bank mentioning therein that she had undertaken that her contesting in the elections would not interfere with her duties in the Bank and that she would also not take undue advantage of her position in the Bank. In the said undertaking dated 22nd February 2001 the petitioner had also stated as under:-

> "In case I get elected to the said office, I will immediately resign from the Bank's service failing which I will be liable to be discharged from the service of the Bank or the Bank will be free to treat my letter seeking permission as a letter of resignation from the day I am declared elected by the Election Authority."

After the said undertaking, it appears that the respondent Bank had also called upon the petitioner to execute further undertakings. In view thereof, the petitioner had also given undertakings on 1st and 2nd March 2001, undertaking that she would be contesting the Municipal Elections as an independent candidate and

not as a candidate supported by any Political Party. This was by an undertaking dated 1st March 2001. Thereafter on 2nd March 2001 she had undertaken that she would not receive any remuneration or honorarium, if she were to be elected to the Panaji Municipal Council.

3. After the aforesaid undertakings were given on 22nd February, 1st March and 2nd March 2001, the respondent Bank issued a No Objection Certificate on 7th March 2001 mentioning that the bank had no objection for the petitioner contesting the forthcoming Panaji Municipal Council Election, subject to the undertakings given by her to the respondent Bank. Thereafter, on 8th March 2001, the respondent Bank had again issued a letter of No Objection to the petitioner mentioning therein clearly that her contesting the election would not interfere with her duties in the Bank and also that she would not take any undue advantage of her position in the Bank. The said letter of 8th March 2001 also very categorically mentioned as under:-

> "In case you are elected you will immediately resign from the Bank's service failing which you will be liable to be discharged or Bank will be free to treat your letter seeking permission as a letter of resignation from the day you are declared elected."

4. In accordance with the No Objection Certificate granted by the respondent Bank, the petitioner had contested the aforesaid Panaji Municipal Council Election and was duly declared elected as a Municipal Councillor on 27th March 2001 from Ward No. 9 of the said Municipal Council. Thereafter, the petitioner appears to have addressed a letter on 3rd April 2001 mentioning therein that one Ramesh Silimkhan has already filed a Writ Petition No. 37 of 2001 before this Court questioning the entire election process to the Panaji Municipal Council and that the petition was expected to come up for hearing on 9th April 2001. By the said letter, the petitioner has stated that if she were to submit her resignation then she may not be able to continue as an employee and also, in view of the aforesaid petition, she may not be able to continue as a Municipal Councillor. Under these circumstances, the petitioner has mentioned in the said letter, that her letter dated 22nd February 2001 should not be acted upon and the same should not be construed as a letter of resignation. Under these circumstances, by the aforesaid letter dated 3rd April 2001, the petitioner had requested the respondent Bank to treat the said communication dated 22nd February 2001 as withdrawn. It appears that the petitioner was also paid salary for the months of April and May 2001. By letter dated 3rd July 2001, the respondent Bank had

issued a call letter to the petitioner to appear for a test for promotion to the post of Officer. In the meanwhile the petitioner had taken out an application in the aforesaid Writ Petition No. 37 of 2001 and got herself impleaded as a respondent in the said petition wherein the election process to the Panaji Municipal Council has been challenged. However, it may be noted here that when the above petition viz., Writ Petition No. 37 of 2001 was admitted by this Court, this Court made it clear that election to Ward 14 will be subject to the final decision in the above petition.

5. On 27th June 2001, the respondent Bank had issued a letter to the petitioner mentioning therein that the petitioner's request for continuing in the service of the Bank cannot be acceded to and that she should submit her resignation with effect from the date she was declared elected by the Election Authority failing which her undertaking will be treated as a letter of resignation. As mentioned hereinabove, this letter dated 27th June 2001 is impugned in this petition. When this petition came up for admission on 9th July 2001, this Court was pleased to grant ad interim relief in terms of prayer clause (b), that is, pending the hearing and final disposal of this petition, this Court was pleased to stay the operation of the communication dated 27th June 2001. Subsequent

thereof, on 31st July 2001, this petition came to be admitted and ad interim relief granted on 9th July 2001 was allowed to continue till the final disposal of the petition.

6. Aggrieved by the aforesaid grant of stay by this Court, the respondent State Bank of India had approached the Hon'ble Supreme Court by way of Special Leave Petition bearing No. 19217 of 2001 and the Supreme Court on 23rd November 2001 had granted stay of the interim relief granted by this Court. Finally on 22nd April 2002 the above Special Leave Petition was converted into Civil Appeal No. 2898 of 2002 and was disposed of with a direction that the interim order granted by the Apex Court on 23rd November 2001 to continue till the disposal of the Writ Petition before the High Court and the High Court was requested to dispose of the petition as expeditiously as possible, preferably within a period of six months from 22nd April 2002. To put it in other words the interim order granted by this Court on 9th July 2001 was stayed till the disposal of this petition. After the said Order was passed by the Hon'ble Supreme Court on 23rd November 2001, the respondent Bank had also communicated to the petitioner that she could not continue in service with the Bank. It may be also noted that on 26th September 2001 the respondent State

Bank had initiated steps to recover the salary wrongly paid for the period 28th March 2001 to 31st May 2001. In that behalf the petitioner had filed a Regular Civil Suit before the Civil Judge, Junior Division, Panaji challenging the said recovery. The learned Civil Judge, Junior Division, Panaji, had declined to grant a stay against the respondent Bank, aggrieved thereby the petitioner had filed an Appeal, wherein an ad-interim stay against such a recovery has been granted.

7. Mr. Sonak, the learned counsel appearing on behalf of the petitioner, very strongly contended that the petitioner had obtained the appropriate No Objection Certificate by executing the necessary undertakings and, thereupon, the petitioner had contested the aforesaid election. The learned counsel also contended that the petitioner was apprehending that her election may be set aside and, therefore, she had promptly, on 3rd April 2001, written to the respondent Bank stating that her letter dated 22nd February 2001 be not treated as a letter of resignation and the said letter be treated as withdrawn.

8. The main submission of the learned counsel for the petitioner is that there has been no occasion for acting on the resignation tendered, as even before the respondent Bank had accepted the letter of

resignation, the petitioner had, by letter of 3rd April 2001, withdrawn the letter in unequivocal terms that the respondent Bank was yet to accept the said resignation and, therefore, had called upon the petitioner to submit her letter of resignation as per the letter dated 27th June 2001. Mr. Sonak contends that an employee is always at liberty to withdraw the resignation till the same is accepted by the employer. In the instant case, according to the learned counsel, as the respondent Bank had not accepted the resignation tendered by the petitioner, the petitioner was at liberty to withdraw the same and the letter of resignation would be ineffective. To put it in other words there is no severance of the relationship of employer and employee till the letter of resignation is accepted by the employer. Mr. Sonak also stated that this is clear from the fact that the respondent Bank had paid the salary for the months of April and May 2001 to the petitioner and, therefore, the petitioner's service ought to be construed as continued for those two months. Mr. Sonak also contended that even in the month of July 2001, by letter dated 3rd July 2001, the petitioner was asked to appear for a promotional test. Mr. Sonak places reliance on the letter of 27th June 2001 where the Respondent Bank has called upon the petitioner to tender her resignation. Therefore Mr. Sonak contends that much prior to that letter, that is,

on 3rd April 2001 itself, the petitioner had tendered a letter whereby she withdrew her letter of resignation dated 22nd February 2001 as indicated by the said letter. Therefore, the learned counsel contended that unless and until the respondent Bank accepts categorically the letter of resignation, the petitioner is entitled to withdraw the same and the petitioner has a right to withdraw the same.

9. In the light of the above the learned counsel for the petitioner contends that the impugned letter dated 27th June 2001 cannot be acted upon in the sense that the respondent cannot force the petitioner to discontinue her services with the Respondent State Bank of India.

10. The learned counsel for the petitioner has relied on various Judgments in support of his submissions. The first Judgment referred to by the learned counsel is **Andhra Bank v. K. Sudha Nagaraj**, 1999 S.C.C. (L & S) 793 wherein in paragraph 3, the Apex Court has observed that since no such relieving order was issued, the employee was entitled, before the order came to be passed, to withdraw the resignation. Therefore, the employee must be deemed to be in service and, accordingly, the Apex Court has concurred with the conclusion of the High Court. The Apex Court has also

observed that before the relieving order came to be passed by a competent authority, an employee had a right to exercise her power to withdraw the resignation.

11. Mr. Sonak then placed reliance on the Judgment of the Apex Court in **Shambhu Murari Sinha v. Project and Development India and another,** (2000) 5 S.C.C. 621 wherein in paragraph 5 the Apex Court has observed as under:-

> " From the facts stated above, it would be seen that though the option of voluntary retirement exercised by the appellant by his letter dated 18-10-1995 was accepted by the respondent Management by their letter dated 30-7-1997, the appellant was not relieved from service and he was allowed to continue in service till 26-9-1997, which, for all practical purposes, would be the "effective date" as it was on this date that he was relieved from service. In the meantime, as pointed out above, the appellant had already withdrawn the offer of voluntary retirement vide his letter dated 7-8-1997. The question which, therefore, arises in this appeal is whether it is open to a person having exercised option of voluntary retirement to withdraw the said offer after its acceptance but before it is made effective. The question is squarely answered by three decisions, namely, **Balram Gupta v. Union of India,** 1987 Supp SCC 228, **J.N. Srivastava v. Union of India,** (1998) 9 SCC 559 and **Power Finance Corpn. Ltd. v. Pramod Kumar Bhatia,** (1997) 4 SCC 280 in which it was held that the resignation, inspite of its

> acceptance, can be withdrawn before the "effective date". That being so, the appeal is allowed. The impugned Judgment of the High Court is set aside with the direction that the appellant shall be allowed to continue in service with all consequential benefits. There will, however, be no order as to costs."

12. Mr. Sonak also referred to another Judgment of the Supreme Court in **Power Finance Corporation Ltd. v. Pramod Kumar Bhatia**, (1997) 4 S.C.C. 280 wherein, in paragraph 7 the Apex Court has also in unequivocal terms observed that it is now settled legal position that unless the employee is relieved of the duty, after acceptance of the offer of voluntary retirement or resignation, jural relationship of the employee and the employer does not come to an end.

13. Mr. Sonak also referred to another Judgment of the Supreme Court in **J.N. Srivastava v. Union of India and another**, (1998) 9 S.C.C. 559 wherein also the Apex Court has held clearly that before the date of retirement is reached, the employee has locus poenitentiae to withdraw the proposal for voluntary retirement.

14. Mr. Sonak, learned counsel, thereafter also referred to the very well known Judgment of the Supreme Court in **Balram Gupta v. Union of India and another**, 1987 (Supp) S.C.C. 228. In the above Judgment the Apex Court has considered various Judgments and has

clearly held that an employee can always withdraw a letter of resignation before the same was accepted by the employer.

15. Thereafter Mr. Sonak referred to a Division Bench Judgment of our High Court in **Jai Singh Chauhan v. Punjab National Bank and others,** 2001 II CLR 723, wherein our High Court has observed as under:-

> " This legal position has been reiterated by the Supreme Court in some recent judgments. In the case of **Union of India and Anr. v. Wing Commander T. Parthasarathi,** (JT 2000 (Suppl) 2 S.C. 490), the respondent who was a Wing Commander in the Indian Air Force applied for premature retirement and along with his application he also submitted a certificate stating that he was aware that any request made by him later for cancellation of his application for premature retirement would not be accepted. He withdrew the application for premature retirement just one day before the acceptance thereof by the Competent Authority. The Supreme Court after considering the judgments in **Gopalchandra Mishra and R.K. Mittal** held that the respondent had a right to revoke his application which had not been accepted by the Authority. The Supreme Court expressly rejected the argument based on the so-called policy decision that there cannot be later cancellation of the application once made for premature retirement. Raju J. speaking for the bench observed thus:-
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> > 'The reliance placed upon the so-called policy decision which obligated the respondent to furnish a certificate to the extent

> that he was fully aware of the fact that he cannot later seek for cancellation of the application once made for premature retirement cannot, in our view, be destructive of the right of the respondent, in law, to withdraw his request for premature retirement before it ever became operative and effective and effected termination of his status and relation with the department. When the legal position is that much clear, it would be futile for the appellant to base their rights on some policy decision of the department or a mere certificate of the respondent being aware of a particular position which has no sanctity or basis in law to destroy such rights which otherwise inhered in him and available in law. No such deprivation of a substantive right of a person can be denied except on the basis any statutory provision or rule or regulation. There being none brought to our notice in this case, the claim of the appellants cannot be countenanced in our hands. Even that apart, the reasoning of the High Court that the case of the respondent will not be covered by the type or nature of the mischief sought to be curbed by the so-called policy decision also cannot be said to suffer any conformity in law, to warrant our interference."

16. Mr. Sonak, the learned counsel appearing for the petitioner, therefore, contended that in view of the very clear settled legal position that unless and until there is acceptance of resignation, the

relationship of an employer and employee does not get severed and also that an employee has always a right to withdraw his resignation before the same is accepted by the employer.

17. The learned counsel for the petitioner also contended that the conditions of undertaking and resignation, etc., as laid down in an Office Circular dated 28th January 1987, is only a policy decision of the Bank and the same cannot be given any legal sanctity. In the sense, such a policy cannot override the right of the petitioner to withdraw her resignation before her resignation was accepted by the Bank. It appears that the aforesaid undertakings were taken by the Bank in pursuance of the Office Circular dated 28th January 1987. Mr. Sonak, therefore, contended that there is no rule or regulation of the State Bank of India having the force of law, to withdraw the resignation before the same was accepted.

18. Mr. Sonak also contended that the facts are clear that the respondent Bank had continued the petitioner's services and paid her salary for the months of April and May 2001 and had sent a letter for a promotional test in July 2001. Learned counsel therefore contended that the only requirement was that the petitioner should not get affiliated to any

political party for getting elected or that she should not receive any remuneration or honorarium and that her activity should not come in the way of bank functioning. Hence, Mr. Sonak contended that in view of the aforesaid undertakings, it is clear that the petitioner ought to be continued in service and her earlier letter dated 22nd February 2001 ought not to be construed as a letter of resignation, which was duly withdrawn by her by letter dated 3rd April 2001, even before the respondent Bank had accepted her letter of resignation and also in view of the settled legal position as laid down by the Supreme Court.

19. Mr. Sonak, the learned counsel for the petitioner, also referred to the Additional Affidavit filed by the petitioner on 28th August 2002 wherein it is mentioned that one Mr. Milagres Freitas was elected as a Member of the Village Panchayat of Socorro and he continued to be an employee (Award Staff) of the State Bank of India while he was a Member of the said Village Panchayat from 3rd January 1987 to October 1991. Mr. Sonak, the learned counsel for the petitioner, therefore, prays that the aforesaid letter dated 27th June 2001, which is impugned in this Petition, ought to be quashed and set aside.

20. The learned senior counsel Mr. Usgaonkar,

who is appearing on behalf of the respondent Bank, at the outset, made it clear that he is not disputing the settled and legal position and that unless and until there is an acceptance of letter of resignation, there cannot be a severance of the employer and employee relationship. Learned counsel also acceded that before the same is accepted, the employee has a right to withdraw the letter of resignation as has been held by various Judgments of the Supreme Court. However, Mr. Usgaonkar contends that in the instant case the No Objection Certificate granted on 8th March 2001 was conditional. In the sense, it makes it abundantly clear that the moment the petitioner gets elected as a Municipal Councillor, the petitioner's services ought to be deemed to have come to an end. It is clear from the said letter that the petitioner should immediately resign from the bank services when she gets elected or she would be liable to be discharged or that the bank would be free to treat her letter seeking permission as a letter of resignation. To put it in other words, Mr. Usgaonkar contends that the above letter dated 8th March 2001, which is the grant of No Objection Certificate in favour of the petitioner, should be construed as that the moment the petitioner gets elected as a Member of the Municipal Council, her services with the employer comes to an end in view of the categorical undertakings by the petitioner as

indicated by letter dated 22nd February 2001, which also mentions clearly that the petitioner will resign from the Bank's service when she gets elected failing which she would be liable to be discharged from the service of the Bank or the Bank was free to treat the said letter seeking permission to be a letter of resignation.

21. Mr. Usgaonkar then contends that even in the letter of 22nd February 2001, the petitioner herself had made it clear that on the day she gets elected, the letter seeking permission for No Objection should be treated as a letter of resignation and also that she would resign or that she would be liable to be discharged or that the bank would be free to treat her letter seeking permission as a letter of resignation. Mr. Usgaonkar then brought to our notice the Circular dated 28th January 1987 issued by the Bank whereby the aforesaid undertakings were required to be furnished by an employee before seeking to contest such elections. In the said Circular as far as Officers are concerned, they were to resign and then only they could contest. As far as Award Staff, that is the category in which the petitioner belonged, the moment they were elected their services ought to come to an end. In fact the said Circular also mentions clearly that an employee has to give an undertaking that as soon as the employee

gets elected, the employee would immediately resign from the bank's service and in the said Circular it is mentioned that there is no case for the Bank to be more liberal in this matter in as much as the employees are appointed in the Bank, primarily for carrying out their duties in the Bank and the Bank cannot permit such employees to neglect their duties once they get elected to a corporation or municipal body. In fact in the said Circular it is also mentioned that in case there is a slightest indication of such interference with the duties of the employee, then such a permission already granted should be withdrawn.

22. Mr. Usgaonkar contended that the objective behind the said policy is that in the event the award staff was not to get elected his services in the bank would not come to an end. However, in the event they were to be elected their services with the bank had to automatically come to an end. Mr. Usgaonkar, the learned counsel for the respondent Bank, contended that the petitioner knew very well while giving the said undertakings that on the day the election results were declared and she was elected, she had to immediately resign or she was liable to be discharged or that the Bank had to treat her letter seeking permission as a letter of resignation. Hence, the learned counsel contended that the petitioner cannot take advantage of

one part of the undertaking and not obey the other part.

23. Mr. Usgaonkar contended that in fact if one were to read all the aforesaid relevant correspondence, namely, letters dated 22nd February 2001, 1st March 2001, 2nd March 2001, 7th March 2001 and 8th March 2001 it is abundantly clear that the petitioner was allowed to contest only on the condition that the moment she gets elected, her services would come to an end by the letter of resignation. Mr. Usgaonkar contends that these letters are to be read in totality and the aforesaid letter of 22nd February 2001 is self-operative on the day the results of the Municipal Council coming to be declared, i.e., on 27th March 2001. To put it in other words, Mr. Usgaonkar contends that it cannot be construed as an employer and employee case where there has to be an acceptance by the employer. In the instant case the very undertaking given by the petitioner, namely, letter of 22nd February 2001 and the letter of No Objection dated 8th March 2001 read together makes it clear that the resignation gets accepted on the day when the petitioner gets elected, that is, on 27th March 2001. Mr. Usgaonkar, therefore, contends that any other interpretation would lead to an absurd situation. The learned counsel contends that the aforesaid letter

would have to be read in its entirety. A person is permitted to contest the elections but the moment the person gets elected, services ought to come to an end. Mr. Usgaonkar, therefore, contends that a person cannot be allowed to approbate and reprobate, that is, to take advantage and also deny when certain part is injurious. In that behalf Mr. Usgaonkar referred to a Judgment of the Supreme Court in **Nagubai Ammal and others v. B. Shama Rao and others**, 1956 S.C. 593 wherein this concept has been elucidated in paragraph 23 as under:-

> "
> (23)..... The observations of Scrutton, L.J. on which the appellants rely are as follows:
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> "A plaintiff is not permitted to 'approbate and reprobate'. The phrase is apparently borrowed from the Scotch law, where it is used to express the principle embodied in our doctrine of election--namely, that no party can accept and reject the same instrument: Ker v. Wauchope (1819) 1 Bligh J. (21)(E): Douglas-Menzies v. Umphelby 1908 AC 224 (232) (F). the doctrine of election is not however confined to instruments. A person cannot say at one time that a transaction is valid and thereby obtain some advantage, to which he could only be entitled on the footing that it is valid, and then turn round and say it is void for the purpose of securing some other advantage. That is to approbate and reprobate the transaction".

> It is clear from the above observations that the maxim that a person cannot 'approbate and reprobate' is only one application of the doctrine of election, and that its operation must be confined to reliefs claimed in respect of the same transaction and to the persons who are parties thereto. The law is thus stated in Halsbury's Laws of England, Volume XIII, p. 454, para 512:
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> "On the principle that a person may not approbate and reprobate, a species of estoppel has arisen which seems to be intermediate between estoppel by record and estoppel in pais, and may conveniently be referred to here. Thus a party cannot, after taking advantage under an order (e.g. payment of costs), be heard to say that it is invalid and ask to set it aside or to set up to the prejudice of persons who have relied upon it a case inconsistent with that upon which it was founded; nor will he be allowed to go behind an order made in ignorance of the true facts to the prejudice of third parties who have acted on it.""

24. Mr. Usgaonkar also referred to another Judgment of the Supreme Court in **Shri Moti Ram v, Shri Param Dev and Anr.,** 1993 (2) SLR 295 which discusses the manner in which a Chairman of a Board could resign and a Member of a Board could resign and the distinction in the same. In any event Mr. Usgaonkar does not dispute the settled legal position that as far as the resignation of an employee is concerned unless and until the same is accepted the same cannot be given effect to. That is, to put it in other words, the contention of Mr. Usgaonkar is that the undertaking of the petitioner given on 22nd February 2001 whereby the

petitioner had tendered her resignation would be deemed to have been accepted on the day the election results were declared on 27th March 2001.

25. Under these circumstances, the learned counsel for the respondent Bank states that as far as payment of salary for the months of April and May is concerned, the same was made by mistake by the Bank as the concerned Officer who was dealing with disbursement of salary was not aware of the position. Even the letter dated 3rd July 2001 for promotional test was issued due to a mistake as the list was finalized much prior to the declaration of election results and, accordingly, the same was issued in a routine manner. However, the learned counsel contended that merely because the salary was paid and a letter for promotional test was issued would not necessarily mean that the respondent Bank had construed the services of the petitioner to have continued even after 27th March 2001. Mr. Usgaonkar contended that it would be highly illogical and unjust to interpret in the instant case wherein it is not a case of a mere employee resigning and an employer accepting the resignation. In the instant case it is interlinked with the fact of getting elected as a Municipal Councillor and, therefore, the Court should not interfere as otherwise persons like the petitioner could always take advantage to continue

in services even after getting elected and as such it would be against the interest of the Bank. The learned senior counsel Mr. Usgaonkar also contended that a mere challenge to the letter dated 27th June 2001 by the petitioner also makes no sense, in the sense even if the aforesaid relief is granted the petitioner would gain nothing in as much as the letter only mentions that she should submit her resignation and failing which the letter of undertaking would be treated as letter of resignation. The petitioner, therefore, stands to gain nothing even if this letter was struck down. Under these circumstances the learned counsel for the respondent Bank contended that the petition is totally devoid of any merit and the same is to be dismissed.

26. Having considered the submissions of both the learned counsel for the petitioner and the respondent Bank, factually, there is no dispute that the petitioner did give an undertaking on 22nd February 2001 pursuant to her desire to contest the elections of the Panaji Municipal Council. In the said undertaking the petitioner has categorically undertaken that in case she gets elected to the said office of the Panaji Municipal Council she would immediately resign from the Bank's service failing which she will be liable to be discharged from the service of the Bank or the Bank

will be free to treat her letter seeking permission as a letter of resignation from the day she is declared elected by the Election Authority. To the above the respondent Bank had responded and granted a No Objection Certificate by its letter dated 8th March 2001 wherein the Bank had made it clear that: "in case you are elected you will immediately resign from the Bank's service failing which you will be liable to be discharged or Bank will be free to treat your letter seeking permission as a letter of resignation from the day you are declared elected". The above letter of 8th March 2001 is a letter of acceptance of resignation and the same came into effect on 27th March 2001, the day the results of Municipal elections were declared. (Emphasis supplied).

27. As pointed out by the learned counsel for the respondent Bank this is not a case wherein an employee merely tenders her resignation and the same will be later accepted by the Bank. Mr. Usgaonkar's contention is that it is a self-operative kind of a situation in the instant case. In the sense, the moment the petitioner gets elected, her letter of resignation, that is letter dated 22nd February 2001, comes into effect and gets accepted as per letter dated 8th March 2001. The respondent Bank is deemed to have accepted the same. There is no necessity for the

respondent Bank to separately issue a letter of acceptance. The aforesaid position is very clear from the aforesaid letters of 22nd February 2001 and 8th March 2001 read together, which make it abundantly clear the intention of the parties that the moment she gets elected, as mentioned in the said letter, the resignation gets accepted by the respondent Bank. Any other interpretation would lead to a situation where an employee would very well take advantage and get elected in a public body and continue to serve with the Bank, which cannot be permitted specially in view of the Bank being a Nationalised Bank which requires an employee to render full time service to the Bank. Merely because the Bank Circular permits the award staff to contest for election to a public office would not mean that they should be allowed to continue even after they get elected. The Bank's intention was clear that as far as the officers are concerned the officers cannot even contest before resigning whereas the award staff were given permission to contest on furnishing an undertaking that they would submit their resignation as soon as they get elected. Merely because the Bank sent a letter to the petitioner requesting the petitioner to submit her resignation would not mean that the relationship between the petitioner and the respondent Bank had not come to an end. Similarly payment of salary for the months of April and May 2001 appears to

have been made by mistake which the petitioner cannot take advantage of. Similarly the letter of 3rd July 2001 calling for a promotional test also appears to be by mistake and the same will be of no assistance to the petitioner. In fact even the said letter dated 8th March 2001 makes it clear that the resignation would be effective as from the day she got elected i.e., from 27th March 2001.

28. The aforesaid legal proposition that unless and until the resignation is accepted, the same cannot be effective is unquestionable, as we are of the considered view that in the instant case, that the resignation has been accepted on the day the petitioner got elected as a Municipal Councillor. There is no further necessity for the respondent Bank to inform the petitioner that her letter of resignation has been accepted.

29. Under the aforesaid facts and circumstances, we find no substance in the above petition, hence the Rule stands discharged, however with no order as to costs, in the facts and circumstances of this case.

S. RADHAKRISHNAN, J.

P.V. HARDAS, J.

ed's.

As per Order passed on Civil Application (Review) No. 24 of 2002 the below mentioned sentence is to be added as paragraph 28A to this Judgment.

Coram: S. RADHAKRISHNAN &
P.V. HARDAS, JJ.

Date: 27th September 2002.

28A. Mr. Usgaonkar, the learned counsel is right in his contention that even if we were to grant the relief in terms of prayer (a) of the petition, the petitioner will finally secure no relief whatsoever.

S. RADHAKRISHNAN, J.

P.V. HARDAS, J.

ed's.